

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
JENNIFER DIANE FREITAG

Jennifer Diane Freitag ("Freitag") and the Missouri Real Estate Commission ("MREC") enter into this Settlement Agreement for the purpose of resolving the question of whether Freitag's license as a professional corporate broker salesperson, license no. 2009012365, will be subject to discipline. Pursuant to § 536.060, RSMo 2000,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the MREC under § 621.110, RSMo, Cum. Supp. 2010. The MREC and Freitag jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo, Cum. Supp. 2010.

Freitag acknowledges that she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against her at the hearing; the right to present evidence on her behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against her; the right to a ruling on questions of law by the Administrative Hearing Commission;

¹ All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

the right to a disciplinary hearing before the MREC at which time Freitag may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREC.

Being aware of these rights provided to her by law, Freitag knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to her.

Freitag acknowledges that she has received a copy of documents that were the basis upon which the MREC determined there was cause for discipline, along with citations to law and/or regulations the MREC believes were violated. Freitag stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Freitag's license as a professional corporate broker salesperson, license no. 2009012365, is subject to disciplinary action by the MREC in accordance with the relevant provisions of Chapter 621, RSMo, and §§ 339.010 to 339.205 and 339.710 to 339.855, RSMo, as amended. The parties stipulate and agree that the disciplinary order agreed to by the MREC and Freitag in Part II herein is based only on the agreement set out in Part I herein. Freitag understands that the MREC may take further disciplinary action against her based on facts or conduct not specifically mentioned in this document that are either now known to the MREC or may be discovered.

I.
Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the MREC and Freitag herein jointly stipulate to the following:

1. The MREC is an agency of the State of Missouri created and existing pursuant to § 339.120, RSMo, for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.180 and 339.710 to 339.860, RSMo, as amended, relating to real estate salespersons and brokers.
2. On or about May 11, 2009, the MREC issued Freitag a real estate salesperson license, license no. 2009012365. On or about February 19, 2010, this license was converted to a real estate broker-salesperson license. On or about March 17, 2010, this license was converted to a real estate professional corporate broker sales-person license.
3. At all time relevant herein, Freitag's real estate license, license no. 2009012365, has been current and active.
4. Section 195.202, RSMo, Cum. Supp. 2009, provides:
 1. Except as authorized by sections 195.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.
 2. Any person who violates this section with respect to any controlled substance except thirty-five grams or less of marijuana, Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[*a*]chromen-1-ol, Indole, or 1-butyl-3(1-naphthoyl)indole, Indole, or 1-pentyl-3(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-*a*-(1*R*,3*S*)-3-hydroxycyclohexyl-5-(2-methyloctan-2-yl)phenol), where

side chain n=5, and homologues where side chain n=4,6, or 7 is guilty of a class C felony.

3. Any person who violates this section with respect to not more than thirty-five grams of marijuana, Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10 a-tetrahydrobenzoâcâchromen-1-ol, Indole, or 1-butyl-3(1-naphthoyl)indole, Indole, or 1-pentyl-3(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-â(1R,3S)-3-hydroxycyclohexylâ-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n=4,6, or 7 is guilty of a class A misdemeanor.

5. Section 577.010, RSMo, Cum. Supp. 2009, provides in relevant part:

1. A person commits the crime of "driving while intoxicated" if he operates a motor vehicle while in an intoxicated or drugged condition.

2. Driving while intoxicated is for the first offense, a class B misdemeanor. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two years.

3. Notwithstanding the provisions of subsection 2 of this section, in a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, no person who operated a motor vehicle with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood shall be granted a suspended imposition of sentence unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

....

6. Section 339.100.2, RSMo, Cum. Supp. 2010, provides in relevant part:

The commission may cause a complaint to be filed with the administrative hearing commission as provided by the

provisions of chapter 621 against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

....

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

....

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

....

(25) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or license renewal. As used in this section, "material" means important information about which the commission should be informed and which may influence a licensing decision[.]

First Offense

7. On November 19, 2009, in St. Louis County, Missouri, Freitag was arrested for the criminal offense of driving while intoxicated, in violation of § 577.010, RSMo.

8. On March 23, 2010, in the St. Louis County Circuit Court, Missouri, Freitag pled guilty to the class B misdemeanor offense of driving while intoxicated, in violation of § 577.010, RSMo. On that same day, the court suspended imposition of sentence (SIS) and placed Freitag on probation for a period of two (2) years, with a number of special conditions.

Second Offenses

9. On September 26, 2009, in Jefferson County, Missouri, Freitag was arrested for the criminal offenses of possession of a controlled substance—cocaine, in violation of § 195.202, RSMo; driving while intoxicated, in violation of § 577.010, RSMo; and failure to drive within a single lane, in violation of § 304.015, RSMo.

10. On November 2, 2009, in Jefferson County Circuit Court, Missouri, Freitag was charged by complaint with the offense of possession of a controlled substance—cocaine, in violation of § 195.202, RSMo; and she was charged by information in misdemeanor with the offenses of driving while intoxicated, in violation of § 577.010, RSMo; and failure to drive within a single lane, in violation of § 304.015, RSMo.

11. On April 12, 2010, in Jefferson County Circuit Court, Missouri, Freitag pled guilty to the class C felony offense of possession of a controlled substance—except 35 grams or less, in violation of § 195.202, RSMo.; and the class B misdemeanor offense of driving while intoxicated, in violation of § 577.010, RSMo.

12. On June 15, 2010, in Jefferson County Circuit Court, Missouri, the court suspended imposition of sentence (SIS) and placed Freitag on probation for a period of five (5) years for the felony offense and two (2) years for the misdemeanor offense.

Application for Broker-Salesperson License

13. Sometime in February, 2010, Freitag signed and submitted a real estate broker-salesperson application to the MREC ("the Application").

14. As part of the Application, Freitag was required to answer "yes" or "no" to Question 1B.A, which read:

Have you been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution in this state, or any other state, or of the United States, whether or not sentence was imposed? **NOTE: This includes Suspended Imposition of Sentence, Suspended Execution of Sentence, misdemeanor and felony convictions, and alcohol related offenses, i.e. DWI and BAC. Check yes if NOT previously disclosed to this Commission and provide the date of the conviction and/or pleading, nature of the offense, court location, and case number on a separate sheet.**

15. In response to the question, Freitag disclosed that she had been arrested in connection with driving while intoxicated on November 19, 2009 (the First Offense).

License Renewal Application

16. On or before June 30, 2010, Freitag was required by the MREC to submit an application to renew her professional corporate broker salesperson license.

17. On or about June 30, 2010, Freitag signed and submitted her renewal application for her professional corporate broker salesperson license ("the Renewal Application").

18. As part of the Renewal Application, Freitag was required to answer "yes" or "no" to Question 2, which read:

Have you been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution in this state, or any other state, or of the United States, whether or not sentence was imposed, including suspended imposition of sentence, suspended execution of sentence and misdemeanor charges that you have **not previously disclosed to this Commission?** If yes, complete information below. Attach additional sheet if needed.

19. Freitag answered no to the question set forth above.

20. On the Renewal Application, Freitag did not disclose information relating to the First Offense, including that on March 23, 2010, she pled guilty to the class B misdemeanor offense of driving while intoxicated and was sentenced to an SIS with probation for two (2) years.

21. On the Renewal Application, Freitag did not disclose information relating to the Second Offenses, including that she had been arrested, charged, pled guilty and sentenced for the class C felony offense of possession of a controlled substance—except 35 grams or less and the class B misdemeanor offense of driving while intoxicated.

22. Freitag's conduct, as stipulated to herein, demonstrates that she (1) lacks good moral character; (2) does not bear a good reputation for honesty, integrity, and fair dealing; and (3) is not competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public, which are grounds for the MREC to refuse to issue a license under § 339.040.1, RSMo, providing cause to discipline the real estate license of Freitag pursuant to § 339.100.2(16), RSMo.

23. Freitag's conduct, in connection with the First Offense and Second Offenses, as stipulated to herein, in being finally adjudicated and entering a plea of

guilty, in a criminal prosecution under the laws of this state, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed; provides cause to discipline the real estate license of Freitag pursuant to § 339.100.2(18), RSMo.

24. Freitag's conduct, as stipulated to herein, constitutes untrustworthy, improper, and fraudulent business dealings and demonstrates bad faith and gross incompetence, providing cause to discipline the real estate license of Freitag pursuant to § 339.100.2(19), RSMo.

25. Freitag's conduct, in failing to disclose on the Renewal Application the events relating to the First Offense and Second Offenses, as stipulated to herein, including but not limited to her guilty pleas and sentences, constitutes the making of a material misstatement, and omission with regard to any application for licensure or license renewal when this information was material, which provides cause to discipline the real estate license of Freitag pursuant to § 339.100.2(25), RSMo.

II.

Joint Agreed Disciplinary Order

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the MREC in this matter under the authority of § 536.060, RSMo, and §§ 621.045.3 and 621.110, RSMo, Cum. Supp. 2010.

26. Freitag's license is on probation. Freitag's license as a professional corporate broker salesperson, license no. 2009012365, is hereby placed on PROBATION for a period of ONE (1) YEAR and Freitag is assessed a CIVIL PENALTY OF \$1,000. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Freitag shall be entitled to practice as a professional corporate broker salesperson under §§ 339.010 to 339.205 and 339.710 to 339.855, RSMo, as amended, provided Freitag adheres to all the terms of this Settlement Agreement.

27. Terms and conditions of the disciplinary period. The terms and conditions of the disciplinary period are as follows:

A. Freitag shall keep the MREC apprised at all times of her current address and telephone number at each place of residence and business. Freitag shall notify the MREC in writing within ten (10) days of any change in this information;

B. Freitag shall timely renew her real estate license, timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain her license in a current and active status;

C. Freitag shall meet in person with the MREC or its representative at any such time or place as required by the MREC or its designee upon notification from the MREC or its designee. Said meetings will be at the MREC's discretion and may occur periodically during the probation period;

D. Freitag shall immediately submit documents showing compliance with the requirements of this Settlement Agreement to the MREC when requested by the MREC or its designee;

E. During the probationary period, Freitag shall accept and comply with unannounced visits from the MREC's representative to monitor compliance with the terms and conditions of this Settlement Agreement;

F. If at any time during the disciplinary period, Freitag changes her residence from the State of Missouri, ceases to be currently licensed in Missouri under Chapter 339, RSMo, as amended, fails to timely pay all fees required for license renewal, or fails to keep the MREC advised of all current places of residence and business, the time of absence, unlicensed status, delinquency in paying fees for license renewal or unknown whereabouts shall not be deemed or taken as any part of the disciplinary period;

G. Freitag shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly promulgated thereunder, all local, state, and federal laws. "State" as used herein includes the State of Missouri and all other states and territories of the United States.

H. Freitag agrees to pay a civil penalty of \$1,000. Said penalty is authorized under Sec. 339.205, RSMo, Cum. Supp. 2010.

I. Freitag agrees to pay the \$1,000 civil penalty by certified check made payable to the "Missouri Real Estate Commission, State of Missouri" and mailed to Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102-1339.

Freitag shall postmark and mail or hand deliver said check within sixty (60) days of the date when this Settlement Agreement becomes effective.

J. Funds received pursuant to this agreement shall be handled in accordance with Sec. 7 of Article IX of the Missouri Constitution. Sec. 339.205.8, RSMo, Cum. Supp. 2010.

K. In the event the MREC determines that Freitag has failed to pay any portion of the \$1,000 agreed upon herein or has violated any other term or condition of this Settlement Agreement, the MREC may, in its discretion: (1) notify the Attorney General who "may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed" under Sec. 339.205.4, RSMo, Cum. Supp. 2010; (2) after an evidentiary hearing, vacate and set aside the penalty imposed herein and may probate, suspend, revoke, or otherwise lawfully discipline Freitag's license under Sec. 324.042, RSMo, Cum. Supp. 2010; and (3) deny, discipline, or refuse to renew or reinstate Freitag's license under Sec. 339.205.7, RSMo, Cum. Supp. 2010.

28. Upon the expiration of the disciplinary period, the license of Freitag shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREC determines that Freitag has violated any term or condition of this Settlement Agreement, the MREC may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke or otherwise lawfully discipline Freitag's license.

29. No additional discipline shall be imposed by the MREC pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the MREC as a contested case in accordance with the provisions of Chapter 536, RSMo.

30. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Freitag of §§ 339.010 to 339.205 and 339.710 to 339.855, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

31. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the MREC or may be discovered.

32. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the parties agree that the MREC may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Freitag agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

33. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

34. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein,

neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

35. The parties to this Settlement Agreement understand that the MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 339, 610, and 324, RSMo, as amended.

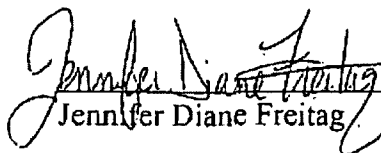
36. Freitag, together with her partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the MREC, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo, as amended, or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

37. Freitag understands that she may, either at the time the Settlement Agreement is signed by all parties, or within fifteen (15) days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts

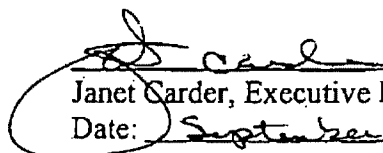
agreed to by the parties constitute grounds for disciplining Freitag's license. If Freitag desires the Administrative Hearing Commission to review this Settlement Agreement, Freitag may submit her request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

38. If Freitag requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Freitag's license. If the Administrative Hearing Commission issues an order stating that the Settlement Agreement does not set forth cause for discipline, then the MREAC may proceed to seek discipline against Freitag as allowed by law. If Freitag does not request review by the Administrative Hearing Commission, this Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

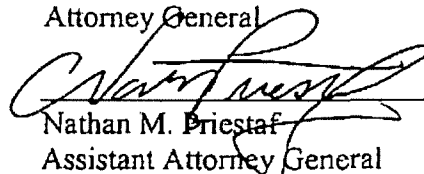
LICENSEE

 9/9/11
Jennifer Diane Freitag Date

**MISSOURI REAL ESTATE
COMMISSION**


Janet Carder, Executive Director
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